FEDERAL REGISTER

VOLUME 5 NUMBER 65

Washington, Wednesday, April 3, 1940

The President

CERTIFICATE OF DISTRESSED EMERGENCY AREAS, PURSUANT TO THE PROVISIONS OF THE ACT OF CONGRESS APPROVED JANUARY 29, 1937, AS AMENDED

WHEREAS, paragraph (c) of section 2 of the Act of Congress approved January 29, 1937 (50 Stat. 5), as amended, entitled "An Act to provide for loans to farmers for crop production and harvesting during the year 1937, and for other purposes," provides:

"No loan made under the provisions of this Act to any borrower shall exceed $400, nor shall a loan be so made in any calendar year which, together with the unpaid principal of prior loans so made to such borrower in that year, shall exceed $400 in amount: *Provided, however,* That in any area certified by the President of the United States to the Governor as a distressed emergency area, the Governor may make loans without regard to the foregoing limitations as to amount, under such regulations, with such maturities, and in such amounts as he may prescribe."

WHEREAS, due to adverse economic conditions prevailing in the Counties of Chelan, Douglas, Grant, and Okanogan in the State of Washington, the Secretary of Agriculture and the Governor of the Farm Credit Administration have recommended that such Counties be certified by me as distressed emergency areas; and

WHEREAS, on the basis of such recommendation and other information furnished me, I have determined that such action should be taken;

NOW, THEREFORE, by virtue of and pursuant to the authority vested in me by paragraph (c) of section 2 of the Act of Congress aforesaid, I do hereby certify the Counties of Chelan, Douglas, Grant, and Okanogan, in the State of Washington, as distressed emergency areas.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
March 27, 1940.

[F. R. Doc. 40–1339; Filed, April 2, 1940; 11:44 a. m.]

Rules, Regulations, Orders

TITLE 6—AGRICULTURAL CREDIT

CHAPTER I—FARM CREDIT ADMINISTRATION

[F.C.A. 170]

REGULATIONS RELATIVE TO EMERGENCY CROP AND FEED LOANS TO ORCHARDISTS IN CERTAIN COUNTIES IN THE STATE OF WASHINGTON

Effective March 28, 1940, the following regulations are prescribed for loans to orchardists in the Counties of Chelan, Douglas, Grant, and Okanogan in the State of Washington, pursuant to the act of Congress approved January 29, 1937, as amended, and the Certificate of the President of the United States dated March 27, 1940, declaring such counties to constitute a distressed emergency area.

PART 113—LOANS IN THE UNITED STATES

§ 113.50 *Loans to orchardists.* Loans will be made to orchardists in the above counties and State for the preservation and care of orchards, including spraying, pruning, and fertilizing; for cultivation and production purposes, including water charges; for harvesting and marketing; for supplies incident and necessary thereto; or for any of such purposes.*†

*§§ 113.50 to 113.73, inclusive, issued under the authority contained in sec. 1, 50 Stat. 5; 12 U.S.C., Sup., 1020i. See also 52 Stat. 26.

†The source of §§ 113.50 to 113.73, inclusive, is F.C.A. Order 283, March 28, 1940.

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§ 113.51 *Security.* Each loan shall be secured by a first lien upon all crops to be financed, in whole or in part, with the proceeds of such loan, and shall be evidenced by notes bearing interest, from maturity until paid, at the rate of 4 percent per annum. Interest to the maturity date at the same rate will be deducted at the time the loan is made.*†

§ 113.52 *Eligibility; general.* No loan will be made to any applicant in an amount greater than the actual cash needs in a particular case. The amount loaned per acre shall be fixed with due regard for the potential yield by variety and grade of fruit, using the "packed box" or its equivalent as a unit, and in no case shall the total amount loaned be greater than the prospective sales value of such fruit after allowing deductions for packing, storage, and sales expenses, calculated on the basis of normal conditions and prices, and record of the orchard during the past 5 years: *Provided,* That no loan shall be made in excess of $125 per acre for production purposes or in excess of $125 per acre for harvesting, packing, and marketing purposes: *Provided, further,* That no loan shall be made to any borrower in 1940 which, together with the unpaid principal of prior loans so made to such borrower in that year, shall exceed $2500 in amount.*†

§ 113.53 *Applicant's marketing agreement.* No loan will be made to an applicant unless he furnishes an agreement with an acceptable agency that such agency will pack and prepare said crop for market (including storage) upon payment of the wholesale cost of materials used, plus actual cost of labor; that the agency subordinates in favor of the Governor any liens it has or may acquire on the crops mortgaged to the Governor; and that the agency will take no action to collect the difference between this payment and the normal and prevailing charge for such services (which would include overhead, interest on investments, taxes, profit, etc.) from the producer until the loan from the Governor has been repaid, or the borrower has accounted to the Governor for the mortgaged crop or the proceeds thereof.*†

§ 113.54 *Applicant's supply agreement.* No loan will be made to an applicant unless he furnishes an agreement with an acceptable agency in the prescribed form that such agency will deliver to the applicant all supplies needed for the purposes for which loans may be made (such as spray material, fertilizer and other orchard supplies) for a cash payment equal to the wholesale cost to such agency; that the agency subordinates in favor of the Governor any liens it has or may acquire on the crops mortgaged to the Governor; and that the agency will take no action to collect from the producer the difference between this cash payment and the normal and prevailing charge for such supplies (which would include such items as storage, overhead, interest on investments, taxes, profit, etc.) until the loan from the Governor has been repaid or the borrower has accounted to the Governor for the mortgaged crop or the proceeds thereof.*†

§ 113.55 *Acreage limitation.* No loan will be made to finance an acreage greater than has been operated by the borrower in immediately preceding years, or to increase the total acreage operated by the borrower.*†

§ 113.56 *Nonproductive orchards.* No loan will be made to care for or preserve an orchard producing a grade or variety of fruit for which there is no satisfactory market under normal conditions, or to care for or preserve an orchard which is in such condition that it should be abandoned.*†

§ 113.57 *Marketing arrangements.* No loan will be made to any applicant unless he agrees to sell his fruit to or through a marketing agency approved by the Director of the Emergency Crop and Feed Loan Section.*†

§ 113.58 *Nondisturbance agreements.* No loan will be made to any applicant who fails to submit nondisturbance agreements and/or waivers in the form prescribed by the Governor duly executed by each of the lienholders listed in the application.*†

§ 113.59 *Part owners of orchards.* No loan will be made to an applicant who is a part owner of the orchard to be served unless all other parties having an interest in such orchard join in the application, note, and lien securing the same.*†

§ 113.60 *Loans to corporations.* No loan will be made to an applicant which is a corporation unless its principal business is farming and unless the principal stockholders of such corporation endorse the note given for each (advance) installment.*†

§ 113.61 *Farm Security Administration borrowers.* No loan will be made to any applicant who is a standard rehabilitation client of the Farm Security Administration or whose application for a standard loan has been approved by the local supervisor of the Farm Security Administration and forwarded to the regional office for approval, as indicated on lists furnished by the Farm Security Administration.*†

§ 113.62 *Available credit.* No loan will be made to any applicant who can obtain a loan from other sources, including production credit associations, in an amount reasonably adequate to meet his needs for the purposes for which such loans may be made.*†

§ 113.63 *Production credit association applicants.* No loan will be made to any applicant who has an application for an orchard loan pending with a production credit association.*†

§ 113.64 *Good faith.* No loan will be made to any applicant who has not undertaken in good faith to meet his obligations in connection with any previous crop, feed, or seed loans as follows: has willfully misused the proceeds of a loan check for any purpose other than those specified in his application; has failed to plant a crop or has planted crops on lands other than those described in the application; has willfully disposed of crops mortgaged to the Governor, or failed to account satisfactorily therefor without applying the proceeds of the sale or the value thereof as a payment on his loan; has willfully used the crops mortgaged to the Governor for any purpose other than that stated in his application or applications; or has failed to pay all or part of such loan or loans when able to do so.*†

§ 113.65 *Members of family units.* No loan will be made to more than one member of a family unit or to any person living and/or farming with an applicant whose application for a loan hereunder has been disapproved.*†

§ 113.66 *Husband and wife.* No loan will be made to either a husband or a wife, if living together, unless they both join in the application, note, and mortgage.*†

§ 113.67 *Purchase of machinery, etc.* No loan will be made for the purchase of machinery or livestock, or for the payment of taxes, rent, debts, or interest or for any purpose other than as specified herein.*†

§ 113.68 *Approved horticultural practices.* Each applicant must agree to conduct his orchard operations in accordance with approved horticultural practices in the district.*†

§ 113.69 *Installments.* Loans may be disbursed in one payment or in installments at the discretion of the regional manager.*†

§ 113.70 *Harvesting allowances.* An amount based on the wholesale cost of materials, plus actual cost of labor (as defined in § 113.52 of these regulations) for the expense of harvesting, packing, preparation for market, (including storage) and marketing, may, in the discretion of the Director of the Emergency Crop and Feed Loan Section, be released from the proceeds of the sale of any of

the crops covered by a lien given to the Governor in any case where a borrower does not have the necessary funds or credit arrangements to meet such expenses.*†

§ 113.71 *Forms.* The amount approved for a loan by the Governor or his representative under these regulations will be paid to the applicant by a disbursing officer upon receipt and approval by the Governor or his representative of the following documents:

(a) Application in the form prescribed, signed by the applicant.

(b) Agreements of the character described in §§ 113.53 and 113.54 of these regulations, relating to furnishing supplies, and packing and storing the fruit.

(c) Promissory note in the form prescribed, executed by the applicant for the amount approved by the Governor or his representative, payable to the Governor, bearing interest at the rate of 4 percent per annum from maturity until paid.

(d) Lien instruments (including waivers) in the form prescribed, conveying a first lien, properly executed and filed, registered or recorded in the proper office as required by local State law.

(e) A voucher for the amount of the loan in the form prescribed, signed by the applicant.*†

§ 113.72 *Fees.* Fees for recording, filing, registration, and examination of records (including certificates) shall be paid by the borrower: *Provided, however,* That such fees aggregating not to exceed 75 cents per loan may be paid by him from the proceeds of the loan. No fees for releasing liens given to secure loans shall be paid from the proceeds of a loan.*†

§ 113.73 *Changing regulations.* The right is reserved to revoke, alter, or amend these regulations at any time and without notice.*†

[SEAL] A. G. BLACK,
Governor.

[F. R. Doc. 40-1340; Filed, April 2, 1940; 11:44 a. m.]

TITLE 16—COMMERCIAL PRACTICES

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. 3576]

IN THE MATTER OF ROOSEVELT MERCANTILE COMPANY

§ 3.6 (f) *Advertising falsely or misleadingly—Demand or business opportunities:* § 3.6 (o) *Advertising falsely or misleadingly—Old as new:* § 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product:* § 3.6 (u) *Advertising falsely or misleadingly—Quality:* § 3.6 (gg) *Advertising falsely or misleadingly—Value.* Representing, in connection with offer, etc., in commerce, of respondent's merchandise, that its goods are new, clean, or only slightly used, when such is not the fact, or that its used merchandise is of high value or quality or of the latest style, or that merchandise which is used, dirty and unfashionable may be readily resold at a profit, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Roosevelt Mercantile Company, Docket 3576, March 27, 1940]

§ 3.6 (a) (3) *Advertising falsely or misleadingly—Business status, advantages or connections of advertiser—Business connections:* § 3.6 (a) (20) *Advertising falsely or misleadingly—Business status, advantages or connections of advertiser—Personnel or staff:* § 3.6 (a) (30) *Advertising falsely or misleadingly—Business status, advantages or connections of advertiser—Stock:* § 3.6 (a) (31) *Advertising falsely or misleadingly—Business status, advantages or connections of advertiser—Unique status or advantages:* § 3.6 (j10) *Advertising falsely or misleadingly—History of product:* § 3.6 (y5) *Advertising falsely or misleadingly—Sample or order conformance:* § 3.72 (m10) *Offering deceptive inducements to purchase—Sample or order conformance.* Representing, in connection with offer, etc., in commerce, of respondent's merchandise, that respondent can or will fill orders for garments in assorted sizes or specified colors, when such is not the fact, or that used merchandise sold by respondent is repaired, cleaned, or pressed by expert craftsmen employed by respondent, when such is not the fact, or that respondent has buying connections not available to its competitors, or that respondent is able to purchase wearing apparel or other merchandise at prices lower than the prices at which its competitors can purchase similar merchandise, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Roosevelt Mercantile Company, Docket 3576, March 27, 1940]

§ 3.6 (g) *Advertising falsely or misleadingly—Earnings:* § 3.72 (c) *Offering deceptive inducements to purchase—Excessive earnings.* Representing, in connection with offer, etc., in commerce, of respondent's merchandise, as the profit to be derived from the resale of respondent's merchandise, any amount or percentage in excess of the average, usual and customary amount or percentage of profit which has actually been derived from the resale of respondent's merchandise under normal conditions and in due course of business, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Roosevelt Mercantile Company, Docket 3576, March 27, 1940]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 27th day of March, A. D. 1940.

Commissioners: Ewin L. Davis, Chairman; Garland S. Ferguson, Charles H. March, William A. Ayres, Robert E. Freer.

[Docket No. 3576]

IN THE MATTER OF V. PORTNOY & SONS, INC., A CORPORATION, TRADING UNDER THE NAME OF ROOSEVELT MERCANTILE COMPANY

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondent, testimony and other evidence taken before A. F. Thomas and John P. Bramhall, examiners of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, brief on behalf of the Commission (counsel for the respondent not having filed any brief nor requested oral argument), and the Commission having made its findings as to the facts and its conclusion that the respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, V. Portnoy & Sons, Inc., a corporation, trading as Roosevelt Mercantile Company, or trading under any other name or names, its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of its merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing that its merchandise is new, clean, or only slightly used, when such is not the fact, or that its used merchandise is of high value or quality or of the latest style;

2. Representing that merchandise which is used, dirty and unfashionable may be readily resold at a profit;

3. Representing that respondent can or will fill orders for garments in assorted sizes or specified colors, when such is not the fact;

4. Representing that used merchandise sold by respondent is repaired, cleaned or pressed by expert craftsmen employed by respondent, when such is not the fact;

5. Representing that respondent has buying connections not available to its competitors, or that respondent is able to purchase wearing apparel or other merchandise at prices lower than the prices at which its competitors can purchase similar merchandise;

6. Representing as the profit to be derived from the resale of respondent's merchandise any amount or percentage in excess of the average, usual and customary amount or percentage of profit which has actually been derived from the resale of respondent's merchandise

[1] 4 F.R. 188.

under normal conditions and in due course of business.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] JOE L. EVINS,
Acting Secretary.

[F. R. Doc. 40-1333; Filed, April 2, 1940; 11:18 a. m.]

TITLE 26—INTERNAL REVENUE

CHAPTER I—BUREAU OF INTERNAL REVENUE

[Regulations 23]

SUBCHAPTER C—MISCELLANEOUS EXCISE TAXES

PART 181—STILLS AND DISTILLING APPARATUS

TABLE OF CONTENTS

REGULATIONS GOVERNING STILLS AND DISTILLING APPARATUS

Article I—Scope of Regulations

§ 181.1 *Stills and distilling apparatus.* These regulations are prescribed pursuant to the provisions of law governing the manufacture, tax-payment, removal, etc., and registration of stills and worms or condensers, and the exportation of stills with benefit of drawback of internal revenue tax. (Secs. 3176, 3250 (j) (3), and 3791, I.R.C., and sec. 161, R.S. (U.S.C., title 5, sec. 22))

Article II—Regulations Superseded

§ 181.2 *Effective date.* These regulations shall on and after the sixtieth day following the date of approval thereof supersede Treasury Decision 4821,[1] approved June 27, 1938, and all prior regulations pertaining to the manufacture, tax-payment, registration, etc., of stills and worms or condensers, and the exportation of stills with benefit of drawback. But these regulations shall not affect or limit any act done or any liability incurred under any regulations superseded hereby, or any suit, action, or proceeding had or commenced in any civil, administrative, or criminal cause or proceeding prior to such date, nor shall these regulations release, acquit, affect, or limit any offense committed in violation of previously existing regulations, or any penalty, liability, or forfeiture incurred prior to such date. (Secs. 3176, 3250 (j) (3), and 3791, I.R.C.)

Article III—Definitions

§ 181.3 *Definitions.* As used in these regulations, the following words and phrases shall have the meaning as herein defined:

(a) "Collector," unless otherwise indicated, shall mean the collector of internal revenue of the collection district in which the manufacturer of stills is located.

(b) "Commissioner" shall mean the Commissioner of Internal Revenue.

(c) "Distilling apparatus" shall mean any still or worm or condenser herein defined.

(d) "District supervisor" or "supervisor" shall mean the person having charge of a supervisory district of the Alcohol Tax Unit of the Bureau of Internal Revenue.

(e) "I.R.C." shall mean the Internal Revenue Code (Public, No. 1, Seventy-sixth Congress).

(f) "Person" "manufacturer," "distiller," or "user" shall include natural persons, associations, copartnerships, and corporations.

(g) "Still" shall mean any apparatus designed, intended, actually used, or capable of being used for separating alcoholic or spirituous vapors, or alcoholic or spirituous solutions, or alcohol or spirits, from alcoholic or spirituous solutions or mixtures.

(h) Words in the plural form shall include the singular, and vice versa and words in the masculine gender shall include females, associations, copartnerships, and corporations.

(i) "Worm" or "condenser" shall mean any apparatus designed, intended, actually used, or capable of being used when connected with a still, for condensing or liquefying alcoholic or spirituous vapors. (Secs. 3176, 3250 (j) (3), and 3791, I.R.C.)

Article IV—Manufacture, Tax-Payment, Sale, Removal, and Registration of Stills or Worms or Condensers

§ 181.4 *Manufacturer of stills defined.* Any person who manufactures any still or worm or condenser to be used in distilling shall be deemed a manufacturer of stills. (Secs. 3254 (h) and 3791, I.R.C.)

§ 181.5 *Special tax liability; rate of tax.* Manufacturers of stills, as to each place of manufacture, shall pay a special (occupational) tax of $50, and, in addition thereto, a special (commodity) tax of $20, for each still or worm or condenser to be used in distilling made by him, i. e., $20 for each still and $20 for each worm or condenser. (Secs. 3250 (j) (1), 3278, and 3791, I.R.C.)

§ 181.6 *Exemption.* Distillers in registered distilleries who manufacture wooden stills for their own use are exempted from the payment of the special taxes imposed by law upon manufacturers of stills, but they are required to give written notice to the collector of the district in which the distillery is located of each still manufactured before its use. (Secs. 3250 (j) (2) and 3791, I.R.C.)

§ 181.7 *Manufacture of parts of stills and assembling thereof*—(a) *Parts procured from same manufacturer.* If separate parts of a complete still or worm or condenser, of any kind, are furnished by the same manufacturer to a distiller, or other person, who assembles the same into a still or worm or condenser for distilling, as defined by § 181.12, the manufacturer of the parts will incur liability to the special (oc-

[1] 3 F.R. 1608.

cupational and commodity) taxes imposed upon manufacturers of stills.

(b) *Materials or apparatus procured and converted into distilling apparatus.* If a distiller or other person procures materials or apparatus, which are not separately subject to tax under these regulations and converts same into a still or worm or condenser for distilling, as defined by § 181.12, he will incur liability to the special (occupational and commodity) taxes imposed upon manufacturers of stills. (Secs. 3254 (h) and 3791, I.R.C.)

§ 181.8 *Reconstruction of stills*—(a) *Repairs or alterations.* Whenever a still or worm or condenser, to be used in distilling, as defined by § 181.12, is repaired or altered by the addition of new material to such an extent as to virtually result in the construction of a new still or worm or condenser, the person making such repairs or alterations will be held liable to the special (commodity) tax of $20 for each still or worm or condenser so repaired or altered, and in addition will incur liability to the special (occupational) tax of $50 as a manufacturer of stills.

(b) *Extent of changes.* Minor structural changes made in a still or worm or condenser, such as the limited replacement of parts or the addition of new materials, which do not effect any material change in the mode of operation, character, or capacity of the distilling apparatus, will not be deemed to constitute the manufacture of a new still or worm or condenser.

(c) *Manufacturer to notify district supervisor.* Any person making such changes, repairs, or alterations of a still or worm or condenser will immediately notify the district supervisor of the district of the extent of such repairs or alterations, advising him of the quantity and cost of new materials and parts and the precise nature of the changes. If the changes, repairs, or alterations are involved or complicated, a sketch of the apparatus showing the changes or alterations should also be furnished the district supervisor for determination of tax liability. Information as to the initial cost of the construction of the apparatus should likewise be furnished the district supervisor if such is available.

(d) *Action by district supervisor.* The district supervisor will determine in each instance whether changes, repairs, or alterations of any still or worm or condenser constitute the manufacture of a new still or worm or condenser, and will in each case notify the manufacturer of his decision. In any instance where tax liability has been incurred, the district supervisor will promptly notify the appropriate collector of such tax liability. The collector will thereupon take appropriate action to collect the required special taxes. Such investigations and inspections in connection therewith will be made as the district supervisor deems necessary. In the event of doubt whether changes, repairs or alterations of any still or worm or condenser are of such nature or extent as to incur tax, the case will be referred to the Commissioner by the district supervisor, together with all the evidence available, including a sketch of the apparatus showing the extent of new materials and replacements, for a ruling. (Secs. 3254 (h) and 3791, I.R.C.)

§ 181.9 *Name plate of manufacturer on still.* Each still and worm or condenser must have a name plate securely attached thereto by riveting or brazing, or have cut by suitable die, legibly and durably in the material of which it is made, showing:

(1) Name of manufacturer.
(2) Address of manufacturer.
(3) Manufacturer's serial number for the article.

Such marking of stills and worms or condensers must be by the manufacturer, and this information will be disclosed by the manufacturer or vendor in the notice to the collector, and in the affidavits required by sections 181.13 and 181.14. (Sec. 3791, I.R.C.)

§ 181.10 *Payment of tax.* The special (commodity) tax on each still or worm or condenser is due when the manufacture thereof is completed, and must be paid by affixing to the article the special (commodity) tax stamp provided by the Commissioner. At the time of affixing such stamp it must be canceled by the manufacturer by writing across the face thereof, in permanent ink, the word "canceled" followed by the name of the manufacturer, the manufacturer's serial number of the apparatus, and the date of cancellation. The special (occupational) tax as manufacturer of stills is due on the 1st day of July in each year, or on commencing such trade or business. In the former case, the tax shall be reckoned for one year, and in the latter, it shall be reckoned proportionately from the 1st day of the month in which the liability to the special tax commenced, to and including the 30th day of June following. It shall be the duty of the special-tax payers to render their returns with required remittances to the collector at such times within the calendar month in which the special tax liability commenced as shall enable him to receive such returns, duly signed and verified, together with the remittances, not later than the last day of the month, except in cases of sickness or absence, as provided by section 3634, I.R.C. Special tax return, Form 11, will be used by manufacturers of stills in rendering their returns of the occupational and commodity taxes due on stills and worms or condensers, and the information required by such form shall be stated. Such returns shall be sworn to before a notary public or other official duly authorized to administer oaths. The special (occupational) tax stamp must be conspicuously posted in the establishment or place of business of the manufacturer of stills. (Secs. 3270, 3271, 3272, 3273, 3634, and 3791, I.R.C.)

§ 181.11 *Types of distilling apparatus subject to commodity tax.* Under the law the $20 tax is due on each still, and on each worm or condenser used as herein indicated and not merely one tax on the unit. This means that tax is due on the beer still, and each successive still or worm or condenser through which the spirits are passed, including an intermediate or primary worm or condenser for low wines, which require doubling, with the following exceptions:

(1) A worm or condenser for the condensation of aldehydes or fusel oil only, where such aldehydes or fusel oil contain only negligible quantities of alcohol, is not subject to the $20 tax.

(2) A preheater used solely for preheating distilling material is not subject to the $20 tax.

(3) A cooler, consisting of a series of metal tubes enclosed in a water jacket or other apparatus of similar construction, used solely for reducing the temperature of hot spirits, is not subject to the $20 tax.

(4) A dephlegmator or separator, used solely for separating vapors of lower boiling points from vapors of higher boiling points, allowing the former to condense and reflux to the still, and the latter to pass forward to a worm or condenser, is not subject to the $20 tax. (Secs. 3250 (j) (1) and 3791, I.R.C.)

§ 181.12 *"Distilling" defined.* The term "distilling" used in section 181.5 shall mean the distillation of spirits or alcohol as defined by sections 2809 (b) (1) and 3124 (a) (1), I.R.C. Such distillation shall include: (a) the original manufacture of distilled spirits from mash, wort, or wash, or any material suitable for the production of spirits; (b) the redistillation of spirits in the course of original manufacture; (c) the redistillation of spirits, or products containing spirits within the provisions of section 3254 (g), I.R.C.; (d) the distillation, redistillation, or recovery of ethyl alcohol or of completely or specially denatured alcohol, or of articles containing ethyl alcohol or completely or specially denatured alcohol; and (e) the redistillation or recovery of tax-free alcohol. (Sec. 3791, I.R.C.)

§ 181.13 *Taxable status of stills.* (a) *Evidence of use.* Any still or worm or condenser of whatever size or capacity, with the exception only of retorts for the production of wood alcohol, and glass laboratory stills of trivial capacity, sold to a user by the manufacturer or otherwise disposed of or used by the manufacturer, will be presumed to be intended for use in distilling, as defined by § 181.12, and special tax as manufacturer of stills and tax on the still or worm or condenser, incurred by the manufacturer, unless such presumption

as to any still or worm or condenser intended for domestic use only, shall be removed by filing satisfactory evidence as hereinafter provided showing that the same will not be used for distilling as defined by § 181.12.

(b) *Purchase by dealer.* When the purchase is made by a dealer, the same presumption will prevail, unless the dealer furnishes the manufacturer with a sworn statement to the effect that sales will be made only for purposes other than distilling, as defined in § 181.12, and before removal of a still or worm or condenser from the dealer's premises, a sworn statement will be obtained from the user as herein provided.

(c) *Successive sales between dealers.* In case of successive sales between dealers, the vendor shall, in each case, take an affidavit of similar purport from the vendee.

(d) *Sale of still for purposes other than distilling.* When a sale is made by a manufacturer or by a dealer to a person who intends to use the still other than for distilling, as defined by § 181.12, a sworn statement of the purchase must be executed in triplicate, and must show the purchaser's name and address, the purpose for which the still will be used, that it will not be used for distilling, as defined by § 181.12, the address where the still, or other distilling apparatus, will be registered, the manufacturer's serial number of the still, or other distilling apparatus, and the manufacturer's name and address. Such affidavit shall be filed with the manufacturer or vendor, as the case may be, who will retain one copy for his files and transmit two copies to the collector, as provided by § 181.14 (c).

(e) *Use by manufacturer.* When a still or worm or condenser is manufactured by the person who intends to use the distilling apparatus for purposes other than distilling, as defined by § 181.12, a sworn statement of such person must be executed in triplicate, and must show that such distilling apparatus was manufactured by him for his own use and is not to be used for distilling, as defined by § 181.12, the purpose for which it is to be used, the address where the apparatus will be registered and used, the manufacturer's serial number of the still or worm or condenser, and the manufacturer's name and address. Such affidavits shall be filed with the collector together with the application on Form 110, as provided by § 181.14 (a).

(f) *Use by United States.* Any still or distilling apparatus intended for use by the United States, or any governmental agency thereof, in distilling, as defined by § 181.12, may be removed by the manufacturer, subject to the application and permit prescribed by § 181.14 (a) without payment of the commodity tax thereon. The collector will note on the permit issued in such case, the following: "Use of (inserting the name of the United States governmental agency)—No commodity tax due." (Secs. 3331 and 3791, I.R.C.)

§ 181.14 *Procedure for removal and use*—(a) *Application and permit for removal.* No still, boiler (doubler or pot still), worm, or condenser, or other distilling apparatus, shall be removed from the premises of the manufacturer or dealer, as the case may be, for delivery to a user, or removed by the manufacturer for his own use, until the collector of the district in which the manufacturer or vendor is located has received from the manufacturer or vendor an application on Form 110, in triplicate, for permission to remove the distilling apparatus and permit on such form has been received from the collector to remove the same. Such application shall disclose the name and address of the manufacturer or vendor, the approximate date the apparatus is to be removed, the name and address of the person by whom the apparatus is to be used, the purpose for which it is to be used, the type and kind of apparatus, its capacity, the manufacturer's serial number of the apparatus, and, if the apparatus is taxable, the serial number of the manufacturer's special (occupational) tax stamp and serial number of the special (commodity) tax stamp for the apparatus. The collector issuing the removal permit shall furnish a copy of such permit to the district supervisor in whose district the apparatus is to be set up, registered, and used. No such distilling apparatus may be set up or used for distilling, as defined by § 181.12, without application to and permit from the district supervisor in whose district the apparatus is to be used, as provided in § 181.14 (b).

(b) *Application and permit to set up and use distilling apparatus.* Upon receipt of such distilling apparatus and before setting up the same for distilling, as defined in § 181.12, the user shall apply to the district supervisor on Part 1, Form 1609, in duplicate, for permission to set up such apparatus, specifying the type of apparatus, the capacity, the serial number thereof, the name and address of the manufacturer, the name and address of the vendor, and the purpose for which the apparatus will be used. The district supervisor shall then, if he has in his possession a copy of the permit issued by the collector for removal of the distilling apparatus from the premises of the manufacturer or vendor, issue permit on Part 2, Form 1609, authorizing the distilling apparatus to be set up by the user. Such permission will contain the stipulations: (1) That the distilling apparatus must be immediately registered when set up, as required by § 181.15 of these regulations; and (2) that all provisions of internal revenue law and regulations, as may be applicable to the class of operations to be conducted, will be complied with prior to use of such apparatus for distilling, as defined by § 181.12. Persons setting up stills for purposes other than distilling, as defined by § 181.12, are not required to obtain the permit to set up and use, but the apparatus must be registered, as provided by § 181.15.

(c) *Use of still for purposes other than distilling.* In case the distilling apparatus is to be used for purposes other than distilling, as defined by § 181.12, two copies of the required affidavit of the user must accompany the application on Form 110, filed by the manufacturer or vendor with the collector. The collector will forward one copy of the affidavit to the district supervisor of the district in which the apparatus will be set up and used, and will retain the remaining copy for his files. The copy of the affidavit retained by the manufacturer or vendor will be filed with the permit to remove the still or worm or condenser in his place of business and will be carefully preserved thereat and will be subject to examination by internal revenue officers at all reasonable hours.

(d) *Collector to examine special tax records.* When the application on Form 110 discloses that the still, worm, or condenser to be removed is to be used for distilling, as defined by § 181.12, the apparatus is taxable and an affidavit covering its use is not necessary. In any such case, the collector will examine his records to determine whether the manufacturer holds an appropriate special tax stamp as a manufacturer of stills and whether the special (commodity) tax on the apparatus has been paid before the issuance of a removal permit on Form 110. The removal permit will not be issued unless it is ascertained that the special taxes have been paid.

(e) *Failure to give notice; penalty.* Failure to give the notice of intention to remove and obtain the permit to set up a still is punishable in the sum of $500, and the distilling apparatus is forfeitable to the Government. (Secs. 2818, 3176, and 3791, I.R.C.)

§ 181.15 *Registry of stills*—(a) *Registration with district supervisor.* Every person having in his possession, custody, or under his control, any still or distilling apparatus set up, shall register the same with the district supervisor of the district in which such still or distilling apparatus is located, except where such stills have heretofore been registered and no change in ownership, possession, custody, control, or location has occurred since such registry. This requirement applies to all stills set up, except retorts for the production of wood alcohol and glass laboratory stills of trivial capacity, and as provided by § 181.15 (d). This registry of stills shall be made on Form 26, in triplicate, with the district supervisor. The specific information required by the instructions on Form 26 will be entered in the space provided therefor. One copy of each registration of stills on Form 26 will be retained by the district supervisor, one copy will be re-

turned to the registrant, and the remaining copy will be forwarded immediately to the Commissioner. The approved copy of Form 26, returned to the registrant by the supervisor, shall be retained on the premises where the still is set up for examination by visiting internal revenue officers.

(b) *When still is "set up."* A still will be regarded as set up and subject to registry when it is in position over a furnace, or connected with a boiler so that heat may be applied, although the worm or condenser may not be in position. These instructions as to stills set up are intended merely as illustrations and are not expected to cover all types of stills or worms or condensers requiring registration under the law.

(c) *Change in location or ownership of still.* In the event a user removes a still to another location, after the same has been registered, no permit therefor will be required, but the still, when set up at the new location, must be immediately registered on Form 26 with the district supervisor. Likewise, when a user sells, or otherwise disposes of a still, no permit for removal, sale, or disposition thereof will be required, but the new owner must immediately register the still on Form 26 with the district supervisor of the district in which the still is set up. If the apparatus so removed or sold is to be used for distilling, as defined in § 181.12, no permit to set up and use the same will be required, but prior to use of such apparatus there must be full compliance with the internal revenue laws and regulations governing the class of operations to be conducted.

(d) *Registration not required in certain cases.* The registration of stills or distilling apparatus set up for use by the United States or any governmental agency thereof, other than for distilling, as defined by § 181.12, will not be required. (Secs. 2810, 3170, and 3176, I.R.C.)

§ 181.16 *Illicit stills.* Internal revenue officers in reporting illicit stills must, in all cases, if possible, ascertain the name and address of the manufacturer of the still and worm or condenser and whether or not the taxes due the Government have been paid. If the officer, upon investigation, ascertains that there has not been compliance with the provisions of law and these regulations, respecting tax-payment and removal, taxes and ad valorem penalties should be asserted against the manufacturer. Every effort must be made by the officers to obtain convincing and complete evidence in such cases. (Sec. 3791, I.R.C.)

Article V—Exportation of Stills With Benefit of Drawback

§ 181.17 *Exportation.* An exportation is a severance of goods from the mass of things belonging to this country with the intention of uniting them to the mass of things belonging to some foreign country. The export character of any shipment will be determined by the intention with which it is made. The shipment assumes an export character only when destined for use in a foreign country. (Sec. 3250 (j) (3), I.R.C.)

§ 181.18 *Puerto Rico and Philippine Islands.* Where reference is made in these regulations, and in the form prescribed, to exportation to a foreign country, their provisions will apply to like shipments to Puerto Rico or to the Philippine Islands, the same as though such shipments were expressly mentioned. (Secs. 3250 (j) (3), 3341 (c), and 3361 (c), I.R.C.)

§ 181.19 *Drawback of tax.* Under the law the allowance of drawback is restricted to stills "manufactured for export and actually exported." (Sec. 3250 (j) (3), I.R.C.)

§ 181.20 *Branding or marking.* Every person who manufactures stills intended for exportation will brand or stamp upon each still, and in a conspicuous place, the words "FOR EXPORT," followed by the serial number of the article and the manufacturer's name. When such stills are manufactured from metal plates, the words "FOR EXPORT" with the serial number of the article and the manufacturer's name directly thereunder, will be stamped (in letters and figures which must, in no case, be less than one-half inch in height) thereon with a suitable die, or otherwise permanently affixed to each still. Where the still is constructed of or encased in wood, the words "FOR EXPORT," the serial number of the article and the manufacturer's name will be branded thereon. (Sec. 3250 (j) (3), I.R.C.)

§ 181.21 *Request for inspection; entry for exportation; drawback claim.* After completion of the stills and before the same are removed from the place of manufacture, the manufacturer (exporter) will forward to the collector of his district Form 1610, in quadruplicate, with Parts 1 and 2 duly executed. Request for exportation and release of the stills for immediate exportation, and application for allowance of drawback, equal to the internal revenue tax paid on the stills, when actually exported, will be made in Part 1 of Form 1610. Entry for exportation of the stills and claim for drawback of the internal revenue tax paid thereon will be made and sworn to by the manufacturer (exporter) in Part 2 of the form. The stamps denoting payment of the tax must be attached to the original of the claim. (Sec. 3250 (j) (3), I.R.C.)

§ 181.22 *Payment of tax; inspection by deputy; certificate.* Upon the receipt of claim and entry on Form 1610, and upon the payment of the tax due, the collector will direct a deputy to proceed to the place of manufacture, and, if the stills are found to agree with those described in the form, and are properly marked or branded as required by these regulations, the deputy will execute the certificate in Part 4 of the form. The stamp, or stamps, attached to the claim must in the presence of the deputy, be canceled by the manufacturer by writing across the face thereof in ink the word "canceled" followed by the name of the manufacturer, the manufacturer's serial number of the apparatus, and the date of cancellation. The deputy will then release the stills for delivery to carrier or into customs custody, and will mail or deliver three copies (one the original, with the tax-paid stamps attached) of the claim and entry, Form 1610, to the collector of customs and forward the remaining copy to the collector of internal revenue. (Sec. 3250 (j) (3), I.R.C.)

§ 181.23 *Delivery of shipment; bills of lading.* The manufacturer, upon release of a shipment of stills for export, will deliver such shipment either to the carrier or directly for customs inspection, as follows:

(a) If the place of manufacture is located at the port of exportation, he will deliver the shipment directly for customs inspection and supervision of lading. A copy of the export bill of lading shall be forwarded and filed with the collector of customs.

(b) If the place of manufacture is located elsewhere than at the port of exportation, he will deliver the shipment to the common carrier for transportation to the port of exportation. He shall procure two copies of the bill of lading covering such transportation. In case of exportation through a border port to foreign contiguous territory, the bill of lading will cover transportation to destination, and must show the routing, particularly the carrier which will deliver the shipment for customs inspection at the border; also the shipment was sent in care of the collector or deputy collector of customs at the border port. He will immediately transmit by letter one copy of the bill of lading to the collector of customs at the port of exportation and transmit the other to the collector of internal revenue. (Sec. 3250 (j) (3), I.R.C.)

§ 181.24 *Inspection and lading.* The collector of customs, to whom claim and entry on Form 1610 is transmitted by the deputy collector of internal revenue, will fill in on each copy of said form the order for inspection and lading. The inspector of customs will carefully examine the stills described in the entry and he will, if he finds the articles to be otherwise than described, make a special report thereon. After having complied with the order of inspection and after the stills have been duly laden on board the exporting vessel or car, the inspector will complete and sign the certificate of inspection and lading in Part

6 of Form 1610. If the inspector discovers any evidence of fraud, he will detain the stills and notify the collector of customs, who will inform the collector of internal revenue of the district in which said port is located. The collector of internal revenue will see that seizure is made and report immediately to the Commissioner of Internal Revenue. (Sec. 3250 (j) (3), I.R.C.)

§ 181.25 *Certificate of exportation.* After inspection and lading and clearance for a foreign port of the vessel or car on which the stills described in the entry are laden, and after receipt of the export or through bill of lading (section 181.23), the collector of customs will execute the certificate of exportation on each copy of the claim and entry, Form 1610. Such collector will retain one copy for his entry record and transmit the remaining two copies of the Form 1610 to the collector of internal revenue for the district from which the stills were shipped. (Sec. 3250 (j) (3), I.R.C.)

§ 181.26 *Approval and submission of claim*—(a) *Action by collector.* The collector of internal revenue will imediately examine the two copies of the claim for drawback on Form 1610, received from the collector of customs (§ 181.25), and if satisfied that the claim is a valid one, he will endorse his approval thereon and forward both copies (one the original with the tax-paid stamps attached) to the Commissioner of Internal Revenue, attention Alcohol Tax Unit.

(b) *Action by Commissioner.* Upon review of the claim by the Commissioner, appropriate action will be taken and the amount of allowance of drawback due will be certified for payment on Form 1611. If the claim is allowed, in whole or in part, the Commissioner will forward it, together with his certificate, Form 1611, and schedule of claims, Form 1612, to the Comptroller General of the United States for certification of the amount allowed. If the claim is disallowed, the Commissioner will so notify the claimant and state the reasons therefor. (Sec. 3250 (j) (3), I.R.C.)

§ 181.27 *Penalty for fraudulently claiming drawback.* One who fraudulently claims or seeks to obtain an allowance of drawback on merchandise on which no tax has been paid, or a greater allowance of drawback than the tax actually paid, is liable to forfeiture of triple the amount claimed or $500, at the election of the Secretary of the Treasury. (Secs. 3250 (j) (3) and 3326, I.R.C.)

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, March 30, 1940.

JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 40–1332; Filed, April 2, 1940; 9:55 a. m.]

Notices

DEPARTMENT OF LABOR.

Wage and Hour Division.

NOTICE OF CHANGE IN DATE FOR FILING WRITTEN STATEMENTS OR NOTICES OF INTENTION TO APPEAR FOR HEARING ON PROPOSED AMENDMENTS OF PART 541 OF REGULATIONS WITH RESPECT TO THE DEFINITION OF THE TERMS "EXECUTIVE, ADMINISTRATIVE, PROFESSIONAL * * * OUTSIDE SALESMAN" AS THEY AFFECT EMPLOYEES IN THE WHOLESALE DISTRIBUTIVE TRADES

Whereas, on the 19th day of March, 1940 (F.R. Vol. V, page 1096), Notice of Hearing on the Proposed Amendments of §§ 541.1, 541.2, and 541.4 of Regulations Issued Under the Fair Labor Standards Act of 1938, was duly issued by Philip B. Fleming, Administrator, Wage and Hour Division, United States Department of Labor, to commence on April 10, 1940 at 10 o'clock a. m. at the Washington Hotel, 15th Street and Pennsylvania Avenue, Washington, D. C., before Mr. Harold Stein, the presiding officer designated, on the following question:

What, if any, amendments should be made to §§ 541.1, 541.2 and 541.4 of regulations issued under Section 13 (a) (1) of the Fair Labor Standards Act of 1938 defining and delimiting the terms "executive, administrative, professional, * * * and * * * outside salesman," with respect to the wholesale distributive trades; and

Whereas, it now appears appropriate to extend the date for filing written statements and notices of intention to appear at this hearing from April 3d to April 9th;

Now take notice that said date for filing written statements and notices of intention to appear has been postponed to the 9th day of April 1940.

Signed at Washington, D. C., this 2d day of April 1940.

PHILIP B. FLEMING,
Colonel, Corps of Engineers.
Administrator.

[F. R. Doc. 40–1341; Filed, April 2, 1940; 11:48 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 30th day of March, A. D. 1940.

Commissioners: Ewin L. Davis, Chairman; Garland S. Ferguson, Charles H. March, William A. Ayres, Robert E. Freer.

[Docket No. 3891]

IN THE MATTER OF YORK CONE COMPANY, A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., Section 41),

It is ordered, That Miles J. Furnas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, April 26, 1940, at ten o'clock in the forenoon of that day (eastern standard time) in Room 10, Federal Building, Henderson, North Carolina.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] JOE L. EVINS,
Acting Secretary.

[F. R. Doc. 40–1334; Filed, April 2, 1940; 11:33 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 30th day of March, A. D. 1940.

Commissioners: Ewin L. Davis, Chairman; Garland S. Ferguson, Charles H. March, William A. Ayres, Robert E. Freer.

[Docket No. 3939]

IN THE MATTER OF CHARLES J. MCCLENNON AND LILLIE M. MCCLENNON, CO-PARTNERS, TRADING AS EMPIRE MONUMENT COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., Section 41).

It is ordered, That Miles J. Furnas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, May 6, 1940, at ten o'clock in the forenoon of that day (central

standard time) in Room 324, Post Office Building, Atlanta, Georgia.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] JOE L. EVINS,
Acting Secretary.

[F. R. Doc. 40–1335; Filed, April 2, 1940; 11:33 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 30th day of March, A. D. 1940.

Commissioners: Ewin L. Davis, Chairman; Garland S. Ferguson, Charles H. March, William A. Ayres, Robert E. Freer.

[Docket No. 3980]

IN THE MATTER OF A. J. GOFORTH, AN INDIVIDUAL

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., Section 41),

It is ordered, That Miles J. Furnas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, April 29, 1940, at ten o'clock in the forenoon of that day (central standard time) in Circuit Court of Appeals Room, Post Office Building, Asheville, North Carolina.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] JOE L. EVINS,
Acting Secretary.

[F. R. Doc. 40–1336; Filed, April 2, 1940; 11:33 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 30th day of March, A. D. 1940.

Commissioners: Ewin L. Davis, Chairman; Garland S. Ferguson, Charles H. March, William A. Ayres, Robert E. Freer.

[Docket No. 4056]

IN THE MATTER OF ETHEL'S CANDY AND SALES COMPANY, INC.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., Section 41),

It is ordered, That Miles J. Furnas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, May 9, 1940, at ten o'clock in the forenoon of that day (central standard time) in Room 324, Post Office Building, Atlanta, Georgia.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] JOE L. EVINS,
Acting Secretary.

[F. R. Doc. 40–1337; Filed, April 2, 1940; 11:33 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 1st day of April, A. D. 1940.

[File No. 70–17]

IN THE MATTER OF THE UNITED LIGHT AND POWER COMPANY, FORT DODGE GAS AND ELECTRIC COMPANY, PEOPLES LIGHT COMPANY, PEOPLES POWER COMPANY

AN ORDER PERMITTING THE DECLARATION TO BECOME EFFECTIVE IN PART ON APRIL 1, 1940

The United Light and Power Company, a registered holding company, having filed on March 26, 1940 a declaration pursuant to Rule U-12B–1 promulgated under the Public Utility Holding Company Act of 1935 by which declaration The United Light and Power Company proposes to make, among other transactions, a capital contribution in the amount of $80,000 to Ottumwa Gas Company, its wholly-owned subsidiary; and

The United Light and Power Company having requested that the Commission permit such declaration to become effective as to $10,000 of said proposed capital contribution on the first day of April, 1940; and

The Commission having on March 28, 1940 given notice pursuant to the provisions of Rule U–12B–1, that said declaration will become effective on the fifteenth day of April, 1940, unless prior to that date the Commission should issue an order for hearing on such declaration, or unless the Commission should grant the requests of the declarant in permitting an acceleration of the order with respect to the capital contribution to Ottumwa Gas Company on the first day of April, 1940; and

The Commission not having received any request that a hearing be held with respect to said declaration and not having entered an order for hearing thereon and deeming it appropriate in the public interest and in the interest of investors and consumers to grant said request of declarant for such acceleration;

It is ordered, That the declaration filed by The United Light and Power Company pursuant to Rule U–12B–1, as to Ottumwa Gas Company, be permitted to become effective forthwith to the extent of the said proposed capital contribution in the amount of $10,000.

It is further ordered, That said declaration as amended shall become effective as to the balance of the proposed capital contribution to Ottumwa Gas Company in the amount of $70,000 on April 15, 1940, unless prior thereto the Commission shall issue an order for hearing thereon or such effective date shall otherwise be postponed in accordance with the provisions of such rule.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40–1338; Filed, April 2, 1940; 11:35 a. m.]